

10:28 am, Jun 18, 2019

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CIT BANK, N.A.,

Plaintiff,

-against-

MEMORANDUM OF  
DECISION & ORDER

2:17-cv-05871 (ADS) (SIL)

JEFFREY COOMBES, DIANE A. COOMBES  
*also known as* DIANE COOMBES *also known*  
*as* DIANE A. ROCKWOOD, and VELOCITY  
INVESTMENTS, LLC,

Defendants.

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**APPEARANCES:**

**Bronster, LLP**

*Attorneys for the Plaintiff*

156 West 56th Street Suite 1801

New York, NY 10019

By: Adam Philip Briskin, Esq., Of Counsel.

**SPATT, District Judge:**

On October 6, 2017, the Plaintiff commenced the instant action against the Defendants seeking, *inter alia*, to foreclose on a mortgage encumbering the property located at 11 Everett Street, Valley Stream, New York 11580 (the “Subject Property”).

On January 10, 2018, after Defendants failed to answer or otherwise respond, the Clerk of the Court entered default pursuant to Federal Rule of Civil Procedure 55(a) as to all Defendants.

On December 11, 2018, the Plaintiff filed the instant motion for default judgment.

On December 13, 2018, the Court referred the motion to United States Magistrate Judge Steven I. Locke for a Report and Recommendation as to whether the motion for default judgment should be granted, and if so, what relief, if any, should be awarded.

On May 23, 2019, Judge Locke issued a Report and Recommendation (“R&R”) recommending as follows:

[T]he Court respectfully recommends that Plaintiff’s motion for default judgment against the Coombeses be granted in part and denied in part, and that CIT be awarded: (i) \$505,577.31 in unpaid principal; (ii) \$20,680.30 in accrued interest, plus additional per diem interest of \$43.29 from October 15, 2018 until the date on which judgment is entered and post-judgment interest thereafter; (iii) \$4,235 in recoverable costs; (iv) \$20,705.82 in escrow advances; (v) \$362.74 in late fees; (vi) \$5,724.50 in attorneys’ fees; and (vii) \$1,645 in litigation costs, for total damages of \$558,930.67 plus continuing interest. The Court further recommends that Plaintiff propose three candidates to Judge Spatt so that he may select one to act as referee, and that the Subject Property be foreclosed and sold with the proceeds to be applied to the amount due under the Note. Finally, the Court recommends that a default judgment against Velocity is appropriate such that its interest, if any, in the Subject Property should be extinguished. In accordance therewith, the Court suggests that an Order similar to the Proposed Judgment, but consistent with this Report and Recommendation, be entered.

ECF 23 at 20-21.

The Plaintiff filed proof of service on May 28, 2019.

It has been more than fourteen days since the service of the R&R, and the parties have not filed objections.

As such, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result. *See Coburn v. P.N. Fin.*, No. 13-CV-1006 (ADS) (SIL), 2015 WL 520346, at \*1 (E.D.N.Y. Feb. 9, 2015) (reviewing Report and Recommendation without objections for clear error).

Accordingly, the R&R is adopted in its entirety. The Plaintiff’s motion for default judgment is granted in part and denied in part as recommended by the R&R. The Court selects Elizabeth Gill, Esq., as the referee. The Plaintiff is directed to submit a proposed judgment consistent with the R&R no later than fourteen days from the issuance of this order.

**SO ORDERED.**

Dated: Central Islip, New York

June 18, 2019

/s/ Arthur D. Spatt

ARTHUR D. SPATT

United States District Judge